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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Choong Soon Ryu
22533 S. Vermont Ave, Unit 41
Torrance, CA 90502**

Registered Nurse License No. 670707

Respondent.

Case No. 2013-358

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Board of Registered Nursing of the Department of Consumer Affairs (Board), and which is hereby served on you.

A written request for a hearing signed by you must be received to the Board no later than November 17, 2012, which is within 15 days of when the Accusation was served on you or mailed to you. Otherwise, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by faxing, delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by faxing or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

**Brent Farrand
Discipline Legal Support Analyst
Board of Registered Nursing
P.O. Box 944210
Sacramento, CA 94244-2100
Fax No. (916) 574-7609**

You may, but need not, be represented by counsel at any or all stages of these proceedings.

The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any objection

1 to the form of the Accusation unless you file a further Notice of Defense as provided in section
2 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

3 If you file any Notice of Defense within the time permitted, a hearing will be held on the
4 charges made in the Accusation.

5 The hearing may be postponed for good cause. If you have good cause, you are obliged to
6 notify the Office of Administrative Hearings - Los Angeles 320 West Fourth Street, Suite 630,
7 Los Angeles, CA 90013-2350, within ten (10) working days after you discover the good cause.
8 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
9 postponement.

10 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

11 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
12 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
13 control of the Board you may send a Request for Discovery to the designated Deputy Attorney
14 General at the address below:

15 Leslie A. Walden
16 Deputy Attorney General
17 California Department of Justice
18 300 South Spring Street, Suite 1702
19 Los Angeles, CA 90013-0000
20 (213) 897-3465

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
24 settlement is a binding written agreement between you and the government regarding the matters
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
26 Board of Registered Nursing but once approved; it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary guidelines;
28 however, all matters in mitigation or aggravation will be considered. A copy of the Board's
Disciplinary Guidelines will be provided to you on your written request to the state agency
bringing this action.

1 If you are interested in pursuing this alternative to a formal administrative hearing, or if you
2 have any questions, you or your attorney should contact Deputy Attorney General, Leslie A.
3 Walden at the earliest opportunity.

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
4 State Bar No. 196882
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2932
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2013 - 358

11 **CHOONG SOON RYU**
12 **22533 S. Vermont Ave, Unit 41**
13 **Torrance, CA 90502**
Registered Nurse License No. 670707

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about December 15, 2005, the Board of Registered Nursing issued Registered
22 Nurse License Number 670707 to Choong Soon Ryu (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on May 31, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
6 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
7 Code, the Board may renew an expired license at any time within eight years after the expiration.

8 6. Section 2761 of the Code states:

9 "The board may take disciplinary action against a certified or licensed nurse or deny an
10 application for a certificate or license for any of the following:

11 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

12 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
13 functions."

14 ...

15 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
17 Act] or regulations adopted pursuant to it.

18 7. Section 2762 of the Code states:

19 "In addition to other acts constituting unprofessional conduct within the meaning of this
20 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
21 chapter to do any of the following:

22 ...

23 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in
24 any hospital, patient, or other record pertaining to the substances described in subdivision (a) of
25 this section."

26 8. California Code of Regulations, title 16, section 1442, states:

27 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
28 the standard of care which, under similar circumstances, would have ordinarily been exercised by

1 a competent registered nurse. Such an extreme departure means the repeated failure to provide
2 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
3 situation which the nurse knew, or should have known, could have jeopardized the client's health
4 or life."

5 9. California Code of Regulations, title 16, section 1443, states:

6 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
7 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
8 exercised by a competent registered nurse as described in Section 1443.5."

9 10. California Code of Regulations, title 16, section 1443.5 states:

10 "A registered nurse shall be considered to be competent when he/she consistently
11 demonstrates the ability to transfer scientific knowledge from social, biological and physical
12 sciences in applying the nursing process, as follows:

13 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
14 and behavior, and through interpretation of information obtained from the client and others,
15 including the health team.

16 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
17 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
18 for disease prevention and restorative measures.

19 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
20 treatment to the client and family and teaches the client and family how to care for the client's
21 health needs.

22 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
23 subordinates and on the preparation and capability needed in the tasks to be delegated, and
24 effectively supervises nursing care being given by subordinates.

25 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
26 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
27 communication with the client and health team members, and modifies the plan as needed.

1 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
2 health care or to change decisions or activities which are against the interests or wishes of the
3 client, and by giving the client the opportunity to make informed decisions about health care
4 before it is provided."

5 **COST RECOVERY PROVISION**

6 11. Code section 125.3 provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct- Gross Negligence and/or Incompetence)**

12 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1) on
13 the grounds of unprofessional conduct, in that Respondent committed acts of gross negligence
14 and/or incompetence, within the meaning of California Code of Regulations, title 16, sections
15 1442, 1443 and 1443.5, involving the treatment of Patient M.¹ The circumstances are as
16 described as follows:

17 13. On or about September 15, 2007, while employed as a registered nurse at Los
18 Angeles County Harbor – UCLA Medical Center in the Surgery Department, in Los Angeles,
19 California, Respondent failed to comply with the policy of performing a surgery sponge count,
20 which resulted in a surgical sponge being left in the abdomen of Patient M. following abdominal
21 surgery.

22 14. On or about August 6, 2008, Patient M. returned to Los Angeles County Harbor –
23 UCLA Medical Center for exploratory abdominal surgery due to a mass being found in Patient
24 M.'s abdomen. An operative report showed that a cyst was found in the patient's abdomen
25 containing the surgical sponge that had been left from the September 15, 2007 surgery.

26 ///

27

28 ¹ Initials are used to protect patient confidentiality. The patient's full name is contained
in the medical records which will be disclosed in discovery.

1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Violation or Attempted Violation of Nursing Practice Act)

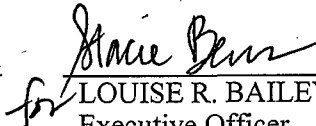
3 15. Respondent's license is subject to discipline under Code section 2761(d) for
4 unprofessional conduct because the Respondent violated or attempted to violate, directly or
5 indirectly, or assisting in or abetted the violating of, or conspiring to violate any provision or term
6 of the Nursing Practice Act. Complainant refers to and by this reference incorporates the
7 allegations set forth above in paragraphs 13 and 14 inclusive, as though set forth fully herein.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number 670707, issued to Choong
12 Soon Ryu;
- 13 2. Ordering Choong Soon Ryu to pay the Board of Registered Nursing the reasonable
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions
15 Code section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.
- 17

18 DATED: NOVEMBER 2, 2012

19 
20 LOUISE R. BAILEY, M.ED., RN
21 Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant

23 LA2011504472
24 Accusation (W)_13

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3 **BEFORE THE**
4 **BOARD OF REGISTERED NURSING**
5 **DEPARTMENT OF CONSUMER AFFAIRS**
6 **STATE OF CALIFORNIA**

7 In the Matter of the Accusation Against:

Case No. 2013-358

8 **Choong Soon Ryu**
9 **22533 S. Vermont Ave, Unit 41**
10 **Torrance, CA 90502**

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

11 **Registered Nurse License No. 670707**

Respondent.

12
13 **TO RESPONDENT:**

14 Under section 11507.6 of the Government Code of the State of California, parties to an
15 administrative hearing, including the Complainant, are entitled to certain information concerning
16 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code
17 concerning such rights is included among the papers served.

18 **PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE**
19 **HEREBY REQUESTED TO:**

20 1. Provide the names and addresses of witnesses to the extent known to the Respondent,
21 including, but not limited to, those intended to be called to testify at the hearing, and

22 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the
23 following in the possession or custody or under control of the Respondent:

24 a. A statement of a person, other than the Respondent, named in the initial
25 administrative pleading, or in any additional pleading, when it is claimed that the act or
26 omission of the Respondent as to this person is the basis for the administrative proceeding;

27 b. A statement pertaining to the subject matter of the proceeding made by
28 any party to another party or persons;

1 c. Statements of witnesses then proposed to be called by the Respondent and
2 of other persons having personal knowledge of the acts, omissions or events which are the
3 basis for the proceeding, not included in (a) or (b) above;

4 d. All writings, including but not limited to reports of mental, physical and
5 blood examinations and things which the Respondent now proposes to offer in evidence;

6 e. Any other writing or thing which is relevant and which would be
7 admissible in evidence, including but not limited to, any patient or hospital records
8 pertaining to the persons named in the pleading;

9 f. Investigative reports made by or on behalf of the Respondent pertaining
10 to the subject matter of the proceeding, to the extent that these reports (1) contain the names
11 and addresses of witnesses or of persons having personal knowledge of the acts, omissions
12 or events which are the basis for the proceeding, or (2) reflect matters perceived by the
13 investigator in the course of his or her investigation, or (3) contain or include by attachment
14 any statement or writing described in (a) to (e), inclusive, or summary thereof.

15 For the purpose of this Request for Discovery, "statements" include written statements by
16 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
17 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
18 summaries of these oral statements.

19 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
20 should be deemed to authorize the inspection or copying of any writing or thing which is
21 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
22 product.

23 Your response to this Request for Discovery should be directed to the undersigned attorney
24 for the Complainant at the address below within 30 days after service of the Accusation.

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1 Failure without substantial justification to comply with this Request for Discovery may
2 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
3 Government Code.

4 Dated: 11/2/2012
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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Choong Soon Ryu
22533 S. Vermont Ave, Unit 41
Torrance, CA 90502**

Registered Nurse License No. 670707

Respondent.

Case No. 2013-358

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

☐ The above is my new address of record.

☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Choong Soon Ryu
22533 S. Vermont Ave, Unit 41
Torrance, CA 90502**

Registered Nurse License No. 670707

Respondent.

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NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

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I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

☐ The above is my new address of record.

☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.
